

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA

PLAINTIFF/RESPONDENT

v.

Civil No. 04-5198  
Crim. No. 03-50027-001

MARIA HILDA CRUZ

DEFENDANT/MOVANT

**MAGISTRATE'S REPORT AND RECOMMENDATION**

Marie Hilda Cruz filed a motion under 28 U.S.C. § 2255 on August 10, 2004 (Doc. #24). Service was ordered and a response filed on September 29, 2004 (Doc. #26). A hearing is scheduled for December 6, 2005, at 1:00 p.m., in Fayetteville, Arkansas. On November 18, 2005, appointed counsel for Cruz filed a motion (Doc. #46) requesting dismissal of this action at movant's request. We have telephonically verified that respondent has no objection to dismissal.

We recommend movant's request to dismiss be granted. **The parties have ten days from receipt of our report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1), unless an extension of time for good cause is obtained. Failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be timely and specific to trigger *de novo* review by the district court.**

DATED this 22nd day of November 2005.

/s/Beverly Stites Jones  
HON. BEVERLY STITES JONES  
UNITED STATES MAGISTRATE JUDGE

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**U. S. District Court**

**Western District of Arkansas**

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REPORT AND RECOMMENDATIONS recommending movant's request to dismiss be granted re [46] MOTION to Withdraw Document 2255 *Petition. Objections to R&R due by 12/12/2005. Signed by Judge Beverly Stites Jones on November 22, 2005. (tg)*

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